

REMARKS

Upon entry of the present amendment, claims 7 and 23 will have been amended. Additionally, claims 12 and 16 will have been canceled. Furthermore, claims 30 and 31 will have been submitted for consideration by the Examiner.

In view of the hereincontained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of each of the outstanding rejections set forth in the above-mentioned Official Action. Such action is respectfully requested and is now believed to be appropriate and proper.

In the outstanding Official Action, the Examiner rejected claims 7, 10-12, 14 and 15-29 under 35 U.S.C. § 103 as being unpatentable over CONSTANTINI et al. (U.S. Patent No. 3,122,005). Claims 7, 9-12 and 14-29 were rejected under 35 U.S.C. § 103 as being unpatentable over CONSTANTINI et al. in view of WILLIAMS et al. (U.S. Patent 5,490,395).

Applicants respectfully traverse each of the above-noted rejections and submits that they are inappropriate with respect to any of the claims in the present application. Accordingly, Applicants respectfully request reconsideration of these rejections and an indication of the allowability of all the claims pending in the present application.

Initially, Applicants note that claims 7 and 23 each define a refrigerator comprising freezing and cooling chambers. It is respectfully submitted that the primary reference relied upon by the Examiner, CONSTANTINI et al., does not disclose freezing and cooling chambers. In particular, CONSTANTINI et al. is directed to a refrigerator construction and discloses only left and right refrigeration chambers. No freezing

chamber is disclosed therein. For this reason alone, it is respectfully submitted that the claims in the present application are clearly patentable over CONSTANTINI et al.

Moreover, each of claims 7 and 23 recites that the cooling air transmitter transmits cooling air into each of the freezing and cooling chambers. It is respectfully submitted that this is also not true in CONSTANTINI et al. In particular, even if one were to modify CONSTANTINI et al. as proposed by the Examiner (which Applicants submit would not be obvious or motivated) CONSTANTINI et al. still would not show transmitting cooling air into each of the freezing and cooling chambers. In this regard, as proposed to be modified by the Examiner, all of the air would be transmitted into the right-hand chamber 12 and only from there would it move through the upper vents 19a, 18a and then into the left-hand chamber 11. This is clearly not what is recited by Applicants' claims. Applicants clearly and distinctly recite that the cooling air transmitter (or blower fan) transmits cooling air into each of the freezing and cooling chambers. For this additional reason, it is respectfully submitted that Applicants' claims are clearly patentable over the CONSTANTINI et al. reference.

Yet further, in setting forth the rejection, the Examiner asserted that CONSTANTINI et al. includes "one similar inlet 18a and one similar outlet 19a". It is respectfully submitted that the Examiner is incorrect. The vent apertures 18a and 19a do not relate to the cooling air outlets recited in Applicants' claims. In this regard, Applicants note that in the last paragraph of claim 7 and in the next to the last paragraph of claim 23, the cooling air outlets are defined as "from the predetermined space". It is respectfully submitted that the vent apertures 19a and 18a are separated from the predetermined space by the horizontal wall shown in cross-section in Fig. 2.

Additionally, in the rejection the Examiner asserts that CONSTANTINI et al. discloses the invention substantially as claimed including "one similar inlet 18a and one similar outlet 19a". However, the pending claims do not recite any inlet. Accordingly, the vent apertures 18a and 19a do not correspond to any recited elements, and the Examiner's reference to "similar" is unclear.

In setting forth the rejection, the Examiner appears to acknowledge that the recitations of the order in which the evaporator, blower fan, and cooling air outlets are arranged, is not taught by CONSTANTINI et al.

Yet further, the Examiner asserts that the system of CONSTANTINI et al. "is able to flow the cooling air towards the upper direction". Applicants respectfully submit that the ability of a system, in the Examiner's opinion, to operate in a manner contrary to that disclosed is not a proper basis for a rejection. Although the Examiner asserts that such could be achieved by "simply reversing the air flow" it is respectfully submitted that there is no motivation or teaching for such a modification of the CONSTANTINI et al. disclosure to operate in a manner exactly the opposite of that disclosed. Moreover, the Examiner's assertion that it is "an obvious choice of an individual to make the air flow" is also submitted to be lacking in any proper motivation. Certainly CONSTANTINI et al. does not disclose this feature or provide any motivation for such modification.

Moreover, to do so would result in air first being transmitted to the right-hand compartment 12 and then being conveyed in a "second-hand fashion" to the left-hand compartment. Clearly, the disclosed design of CONSTANTINI et al. where the air flow is downward and enters each of the right- and left-hand columns directly from the duct 20 is vastly superior to the Examiner's proposed and unmotivated modification.

In setting forth the rejection, the Examiner asserted that there was "no criticality or unexpected result" from reversing the air flow. As noted above, this is clearly untrue. It is respectfully submitted that the disclosed orientation of components and of the air flow is superior to that proposed by the Examiner.

Moreover, the criticality or unexpected result of an Examiner suggested modification of a prior art document is not a requirement for patentability.

Yet further, regarding the narrow space in the air passage recited, *inter alia*, in claim 7, the Examiner asserts that the two exits 18b and 19b have a narrow passage just before the exit point. It is respectfully submitted that the Examiner's assertion is incorrect since, according to the Examiner's own proposed modification of the operation of the CONSTANTINI et al. device, 18b and 19b are entrances to the duct 20 rather air exits to the freezing and cooling chambers.

For each of the above-noted reasons individually and most certainly for all of the above-noted reasons, it is respectfully submitted that the Examiner's rejection of the claims in the present application as rendered unpatentable by CONSTANTINI et al. is inappropriate.

The Examiner has also provided no motivation or suggestion to make the proposed modification of the CONSTANTINI et al. disclosure. Such motivation or suggestion must be found in the prior art and not in Applicants' disclosure. In *re* Vaeck, 947 F2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991). Certainly CONSTANTINI et al. does not provide such a motivation or suggestion. Moreover, even if CONSTANTINI et al. could be modified as proposed by the Examiner, the mere fact that it could be modified does not render the resultant modification obvious unless the prior art also suggests the

desirability of such modification. In re Mills 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990).

Applicants further traverse the Examiner's rejection of claims 7, 9-12 and 14-29 as being unpatentable over CONSTANTINI et al. in view of WILLIAMS et al. The shortcomings and deficiencies of CONSTANTINI et al. have already been discussed. WILLIAMS et al. is further relied upon for a damper/baffle. WILLIAMS et al. is not relied upon and cannot be relied upon for overcoming any of the above-noted deficiencies of the CONSTANTINI et al. reference and the rejection is thus deficient due to the above-noted shortcomings.

Moreover, in setting forth the rejection, the Examiner asserts that WILLIAMS et al. teaches an air fan which draws cooling air flow upwards to an exit. However, WILLIAMS et al. also does not disclose transmitting air to freezing and refrigerating chambers. Rather, WILLIAMS et al. is only related to transmitting air to a refrigerating chamber. Moreover, since WILLIAMS et al. is only related to directing air to a single chamber, the shortcomings as noted above that would result from modifying CONSTANTINI et al. as proposed by the Examiner would also apply to the combination. Accordingly, WILLIAMS et al. cannot provide a teaching for modifying CONSTANTINI et al. as proposed by the Examiner.

Yet additionally, the Examiner has again provided no motivation or suggestion for making the proposed combination, which must be found in the prior art and not in Applicants' disclosure. Neither CONSTANTINI et al. nor WILLIAMS et al. provide any such motivation or suggestion. Nor has the Examiner set forth any such motivation or suggestion. Moreover, even if CONSTANTINI et al. could be combined with WILLIAMS

et al., the mere fact that the references can be combined or modified does not render the resultant combination obvious, unless the prior art also suggest the desirability of the combination. Each of the relied upon references fails to suggest such a desirability. Accordingly, for this additional reason, Applicants submit that the Examiner has improperly combined teachings from CONSTANTINI et al. and WILLIAMS et al.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all the claims pending in the present application, in due course.

By the present response, Applicants have submitted two additional claims for consideration to even more clearly define specific features of Applicants' invention. These claims are submitted to be allowable over the prior art of record herein. Accordingly, examination and an indication of the allowability of these claims is also respectfully requested.

SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have done so. Applicants have amended several claims and canceled several claims. Additionally, Applicants have submitted several claims for consideration by the Examiner.

Applicants have discussed the outstanding rejections and have pointed out the shortcomings thereof. In particular, Applicants have discussed the recitations of the claims and the deficiencies of the disclosures of the references with respect thereto. Applicants have further discussed the teachings of the references and have noted the shortcomings thereof with respect to Applicants' claims. Applicants have further pointed out the lack of motivation for the Examiner's proposed modification or combinations. Accordingly, Applicants have provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully request an indication to such effect, in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Moo Youl KIM et al.



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